

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES PAUL BRAYBROOK, an  
individual and on behalf of his  
individual retirement account,

Plaintiffs,

v.

MINNESOTA LIFE INSURANCE  
COMPANY, a Minnesota corporation;  
AARON R. ANDREW, an individual;  
PARAMOUNT FINANCIAL  
SERVICES, INC. dba LIVE  
ABUNDANT, a Utah corporation; and  
DOES 1-10

Defendants.

Case No. 2:19-cv-01137-SVW-JPR

STIPULATED PROTECTIVE  
ORDER

Honorable Jean P. Rosenbluth

NOTE: CHANGES MADE BY THE COURT

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

1     2.     DEFINITIONS

2     2.1     Challenging Party: a Party or Non-Party that challenges the designation of  
3     information or items under this Order.

4             2.2     “CONFIDENTIAL” Information or Items: information (regardless of  
5     how it is generated, stored or maintained) or tangible things that qualify for protection  
6     under Federal Rule of Civil Procedure 26(c).

7             2.3     Counsel (without qualifier): Outside Counsel of Record and In-House  
8     Counsel (as well as their support staff).

9             2.4     Designating Party: a Party or Non-Party that designates information or  
10     items that it produces in disclosures or in responses to discovery as  
11     “CONFIDENTIAL.”

12            2.5     Disclosure or Discovery Material: all items or information, regardless of  
13     the medium or manner in which it is generated, stored, or maintained (including,  
14     among other things, testimony, transcripts, and tangible things), that are produced or  
15     generated in disclosures or responses to discovery in this matter.

16            2.6     Expert: a person with specialized knowledge or experience in a matter  
17     pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
18     expert witness or as a consultant in this action.

19            2.7     In-House Counsel: attorneys who are employees of a party to this action.  
20     In-House Counsel does not include Outside Counsel of Record or any other outside  
21     counsel.

22            2.8     Non-Party: any natural person, partnership, corporation, association, or  
23     other legal entity not named as a Party to this action.

24            2.9     Outside Counsel of Record: attorneys who are not employees of a party  
25     to this action but are retained to represent or advise a party to this action and have  
26     appeared in this action on behalf of that party or are affiliated with a law firm which  
27     has appeared on behalf of that party.

28            2.10    Party: any party to this action, including all of its officers, directors,

employees, consultants, retained experts, insurance carrier(s) who may be liable in whole or in part (directly or indirectly) for a judgment in the action or for the cost of defense and Outside Counsel of Record (and their support staffs).

2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.12 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.13 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

### 3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

1     4.     DURATION

2           Even after final disposition of this litigation, the confidentiality obligations  
3 imposed by this Order shall remain in effect until a Designating Party agrees  
4 otherwise in writing or a court order otherwise directs. Final disposition shall be  
5 deemed to be the later of (1) dismissal of all claims and defenses in this action, with or  
6 without prejudice; and (2) final judgment herein after the completion and exhaustion  
7 of all appeals, rehearings, remands, trials, or reviews of this action, including the time  
8 limits for filing any motions or applications for extension of time pursuant to  
9 applicable law.

10    5.     DESIGNATING PROTECTED MATERIAL

11        5.1   Exercise of Restraint and Care in Designating Material for Protection.

12       Each Party or Non-Party that designates information or items for protection under this  
13 Order must take care to limit any such designation to specific material that qualifies  
14 under the appropriate standards. The Designating Party must designate for protection  
15 only those parts of material, documents, items, or oral or written communications that  
16 qualify – so that other portions of the material, documents, items, or communications  
17 for which protection is not warranted are not swept unjustifiably within the ambit of  
18 this Order.

19       Mass, indiscriminate, or routinized designations are prohibited. Designations  
20 that are shown to be clearly unjustified or that have been made for an improper  
21 purpose (e.g., to unnecessarily encumber or retard the case development process or to  
22 impose unnecessary expenses and burdens on other parties) expose the Designating  
23 Party to sanctions. If it comes to a Designating Party's attention that information or  
24 items that it designated for protection do not qualify for protection, that Designating  
25 Party must promptly notify all other Parties that it is withdrawing the mistaken  
26 designation.

27       5.2   Manner and Timing of Designations. Except as otherwise provided in  
28 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise

1 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
2 under this Order must be clearly so designated before the material is disclosed or  
3 produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (e.g., paper or electronic  
6 documents, but excluding transcripts of depositions or other pretrial or trial  
7 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” to each  
8 page that contains protected material. If only a portion or portions of the material on a  
9 page qualifies for protection, the Producing Party also must clearly identify the  
10 protected portion(s) (e.g., by making appropriate markings in the margins).

11 A Party or Non-Party that makes original documents or materials available for  
12 inspection need not designate them for protection until after the inspecting Party has  
13 indicated which material it would like copied and produced. During the inspection and  
14 before the designation, all of the material made available for inspection shall be  
15 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents  
16 it wants copied and produced, the Producing Party must determine which documents,  
17 or portions thereof, qualify for protection under this Order. Then, before producing the  
18 specified documents, the Producing Party must affix the “CONFIDENTIAL” legend  
19 to each page that contains Protected Material. If only a portion or portions of the  
20 material on a page qualifies for protection, the Producing Party also must clearly  
21 identify the protected portion(s) (e.g., by making appropriate markings in the  
22 margins).

23 (b) for testimony given in deposition or in other discovery-related  
24 proceedings, that the Designating Party identify on the record, before the close of the  
25 deposition, hearing, or other proceeding, all protected testimony.

26 (c) for information produced in some form other than documentary and for  
27 any other tangible items, that the Producing Party affix in a prominent place on the  
28 exterior of the container or containers in which the information or item is stored the

1 legend “CONFIDENTIAL.” If only a portion or portions of the information or item  
2 warrant protection, the Producing Party, to the extent practicable, shall identify the  
3 protected portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
5 failure to designate qualified information or items does not, standing alone, waive the  
6 Designating Party’s right to secure protection under this Order for such material.  
7 Upon timely correction of a designation, the Receiving Party must make reasonable  
8 efforts to assure that the material is treated in accordance with the provisions of this  
9 Order.

## 10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
12 designation of confidentiality at any time consistent with the Court’s scheduling order.  
13 Unless a prompt challenge to a Designating Party’s confidentiality designation is  
14 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
15 or a significant disruption or delay of the litigation, a Party does not waive its right to  
16 challenge a confidentiality designation by electing not to mount a challenge promptly  
17 after the original designation is disclosed.

18 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
19 resolution process by providing written notice of each designation it is challenging  
20 and describing the basis for each challenge. To avoid ambiguity as to whether a  
21 challenge has been made, the written notice must recite that the challenge to  
22 confidentiality is being made in accordance with this specific paragraph of the  
23 Protective Order as well as Local Rule 37. The parties shall attempt to resolve each  
24 challenge in good faith and must begin the process by conferring directly (in voice to  
25 voice dialogue; other forms of communication are not sufficient) within 10 days of the  
26 date of service of notice. In conferring, the Challenging Party must explain the basis  
27 for its belief that the confidentiality designation was not proper and must give the  
28 Designating Party an opportunity to review the designated material, to reconsider the

1 circumstances, and, if no change in designation is offered, to explain the basis for the  
2 chosen designation. A Challenging Party may proceed to the next stage of the  
3 challenge process only if it has engaged in this meet and confer process first or  
4 establishes that the Designating Party is unwilling to participate in the meet and confer  
5 process in a timely manner.

6         6.3     Judicial Intervention. If the Parties cannot resolve a challenge without  
7 court intervention, the parties shall follow Local Rule 37's procedures.

8         The burden of persuasion in any such challenge proceeding shall be on the  
9 Designating Party. Frivolous challenges, and those made for an improper purpose  
10 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
11 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
12 the confidentiality designation by failing to file a motion to retain confidentiality as  
13 described above, all parties shall continue to afford the material in question the level  
14 of protection to which it is entitled under the Producing Party's designation until the  
15 court rules on the challenge.

## 16     7.     ACCESS TO AND USE OF PROTECTED MATERIAL

17         7.1     Basic Principles. A Receiving Party may use Protected Material that is  
18 disclosed or produced by another Party or by a Non-Party in connection with this case  
19 only for prosecuting, defending, or attempting to settle this litigation. Such Protected  
20 Material may be disclosed only to the categories of persons and under the conditions  
21 described in this Order. When the litigation has been terminated, a Receiving Party  
22 must comply with the provisions of section 13 below (FINAL DISPOSITION).

23         Protected Material must be stored and maintained by a Receiving Party at a  
24 location and in a secure manner that ensures that access is limited to the persons  
25 authorized under this Order.

26         7.2     Disclosure of "CONFIDENTIAL" Information or Items. Unless  
27 otherwise ordered by the court or permitted in writing by the Designating Party, a  
28 Receiving Party may disclose any information or item designated "CONFIDENTIAL"

1 only to:

2 (a) the Receiving Party's Outside Counsel of Record in this action, as well  
3 as employees of said Outside Counsel of Record to whom it is reasonably necessary to  
4 disclose the information for this litigation;

5 (b) the officers, directors, and employees of the Receiving Party to whom  
6 disclosure is reasonably necessary for this litigation and who have signed the  
7 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

8 (c) any insurance carrier of a Party who may be liable in whole or in part  
9 (directly or indirectly) for a judgement in the action or for the cost of defense and who  
10 have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

11 (d) the Receiving Party's In-House Counsel;

12 (e) Experts (as defined in this Order) of the Receiving Party to whom  
13 disclosure is reasonably necessary for this litigation and who have signed the  
14 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

15 (f) the court and its personnel;

16 (g) court reporters and their staff, professional jury or trial consultants,  
17 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
18 for this litigation and who have signed the "Acknowledgment and Agreement to Be  
19 Bound" (Exhibit A);

20 (h) in preparation of and for depositions, witnesses in the action to whom  
21 disclosure is reasonably necessary and who have signed the "Acknowledgment and  
22 Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating  
23 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to  
24 depositions that reveal Protected Material must be separately bound by the court  
25 reporter and may not be disclosed to anyone except as permitted under this Stipulated  
26 Protective Order.

27 (i) the author or recipient of a document containing the information or a  
28 custodian or other person who otherwise possessed or knew the information.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
2 OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation  
4 that compels disclosure of any information or items designated in this action as  
5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall  
7 include a copy of the subpoena or court order unless prohibited by law;

8 (b) promptly notify in writing the party who caused the subpoena or order to  
9 issue in the other litigation that some or all of the material covered by the subpoena or  
10 order is subject to this Protective Order. Such notification shall include a copy of this  
11 Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued  
13 by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with  
15 the subpoena or court order shall not produce any information designated in this  
16 action as “CONFIDENTIAL” before a determination by the court from which the  
17 subpoena or order issued, unless the Party has obtained the Designating Party’s  
18 permission. The Designating Party shall bear the burden and expense of seeking  
19 protection in that court of its confidential material – and nothing in these provisions  
20 should be construed as authorizing or encouraging a Receiving Party in this action to  
21 disobey a lawful directive from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
23 IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by a  
25 Non-Party in this action and designated as “CONFIDENTIAL.” Such information  
26 produced by Non-Parties in connection with this litigation is protected by the  
27 remedies and relief provided by this Order. Nothing in these provisions should be  
28 construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 21 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

#### 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and

Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court provided the Court so allows.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5. Protected material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party’s request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: April 16, 2019

/s/ Brandon S. Reif  
Brandon S. Reif

Attorneys for Plaintiff James Paul Braybrook

Dated: April 16, 2019

/s/ Kathy J. Huang  
Kathy J. Huang

Attorneys for Defendant Minnesota Life Insurance Company

Dated: April 16, 2019

/s/ Jacob L. Fønnesbeck  
Jacob L. Fønnesbeck

Attorneys for Defendants Aaron Andrew  
and Paramount Financial Services, Inc.

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Attestation: I, Kathy J. Huang, hereby attest that I have received the consent of  
Brandon S. Reif and Jacob L. Fonnesebeck to file this document and that they concur  
with its contents.

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 24, 2019

  
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THE HONORABLE JEAN P. ROSENBLUTH

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
I have read in its entirety and understand the Stipulated Protective Order that was  
issued by the United States District Court for the Central District of California on  
[date] in the case of *Braybrook v. Minnesota Life Insurance Company et al.*, No. 2:19-  
cv-01137-SVW-JPR. I agree to comply with and to be bound by all the terms of this  
Stipulated Protective Order and I understand and acknowledge that failure to so  
comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item that is  
subject to this Stipulated Protective Order to any person or entity except in strict  
compliance with the provisions of this Order.  
I further agree to submit to the jurisdiction of the United States District Court for the  
Central District of California for the purpose of enforcing the terms of this Stipulated

1 Protective Order, even if such enforcement proceedings occur after termination of this  
2 action.

3 I hereby appoint \_\_\_\_\_ [print or type full name] of  
4 \_\_\_\_\_ [print or type full address and  
5 telephone number] as my California agent for service of process in connection with  
6 this action or any proceedings related to enforcement of this Stipulated Protective  
7 Order.

8 Date: \_\_\_\_\_

9 City and State where sworn and signed: \_\_\_\_\_

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11 Printed name: \_\_\_\_\_

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13 Signature: \_\_\_\_\_

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